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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,676	02/03/2004	Anton Krallmann	CH-8053/WW-5621	4035
157 7590 05/12/2008 BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			EXAMINER MIGGINS, MICHAEL C	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 05/12/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,676	<b>Applicant(s)</b> KRALLMANN ET AL.	
	<b>Examiner</b> Michael C. Miggins	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/31/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. The restriction requirement of 2/14/08 has been withdrawn and all pending claims 1-7, 9-11 have been examined together.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is in improper independent/dependent form. It is not clear to one of ordinary skill in the art whether claim 9 is in fact an independent or dependent claim. If claim 9 is independent it is improper because the independent claim must recite all of the limitations of claim 1. If claim 9 is dependent than the phrase "sausage product" lacks antecedent basis. For purposes of examination claim 9 has been construed as a dependent claim. It is suggested that claim 9 read as follows - - Sausage casing according to claim 1, further comprising sausage stuffed into said casing - -.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1794

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 2512720 (English abstract included herein) in view of Zhu et al. (US 2004/0065072 A1).

DE 2512720 discloses a sausage casing characterized in that the sausage casing is closed at one end or two ends by a multifilament yarn composed of flax fibers and polyolefin fibers for increased strength (see English abstract).

DE 2512720 fails to disclose that the yarn contains a metal insert, i.e. metal filaments.

Zhu discloses yarn containing metal filaments (paragraph [0021], [0026]) for the purpose of providing improved cut resistance (paragraph [0021]), i.e. improved strength. Improved cut resistance would be desirable since it would prevent cutting of the yarn during transport and/or storage of the sausage casing thus preventing pre-mature opening of the casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided multifilament yarn which includes metal filaments in DE 2512720 in order to provide improved cut resistance as taught or suggested by Zhu.

DE 2512720 discloses a sausage casing which contains stuffing since the sausage is inside the casing (see English abstract).

Zhu discloses 1 to 10 metal filaments, a diameter of 0.01 to 0.5 mm (paragraph [0026]).

Claim 2 is an apparatus in a product, however, an apparatus in which the product is to be used is not germane to the patentability of a product in a product claim (MPEP 2114).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 2512720 (English abstract included herein) in view of Zhu et al. (US 2004/0065072 A1), as applied to claims 1-5, 7 and 9-11 above, and further in view of Lancaster (US 5236726).

Neither DE 2512720 nor Zhu disclose a casing made from cellulose.

Lancaster discloses a sausage casing made from cellulose in order to provide a casing which can be recycled (column 2, lines 45-68).

It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a cellulose sausage casing in order to provide a casing which can be recycled as taught or suggested by Lancaster.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael C. Miggins/  
Primary Examiner, Art Unit 1794

MCM  
May 8, 2008